

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN DOE, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

JEWISH FAMILY SERVICE OF
SEATTLE, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

Civil Action No. 2:17-cv-00178JLR

Civil Action No. 2:17-cv-01707JLR

**DEFENDANTS' NOTICE REGARDING
EMERGENCY MOTION FOR STAY**

(RELATING TO BOTH CASES)

1 On December 27, 2017, Defendants filed a Motion for Reconsideration Concerning the
 2 Scope of the Preliminary Injunction. (ECF No. 93.) Thereafter, on December 29, 2017,
 3 Defendants filed an Emergency Motion for Stay of Preliminary Injunction Pending Appeal. (ECF
 4 No. 95.) Plaintiffs filed a joint response to the motion for reconsideration (ECF No. 98) and
 5 individual responses to the stay motion (ECF Nos. 101, 102). On January 5, 2018, the Court
 6 entered an Order denying the motion for reconsideration. (ECF No. 103.) Defendants' stay
 7 motion remains pending at this time.

8 Defendants now respectfully submit this Notice to request that the Court specifically
 9 consider whether to stay that portion of its preliminary injunction Order that enjoins Defendants
 10 from enforcing the challenged provisions of the Joint Memorandum against refugee applicants
 11 whose sole connection to the United States is through resettlement assurance.¹ While Defendants
 12 maintain, for the reasons set forth in the pending motion, that a stay in full of the preliminary
 13 injunction would be proper, a stay of the resettlement assurance portion of the injunction is
 14 particularly warranted given the Supreme Court's stay orders of materially similar rulings by both
 15 the U.S. District Court for the District of Hawaii and the U.S. Court of Appeals for the Ninth
 16 Circuit. *Compare Trump v. Hawaii*, 138 S. Ct. 34, 34 (July 19, 2017) (mem.) ("The District Court
 17 order modifying the preliminary injunction with respect to refugees covered by a formal assurance
 18 is stayed pending resolution of the Government's appeal to the Court of Appeals for the Ninth
 19 Circuit."), *with Trump v. Hawaii*, 138 S. Ct. 49, 49-50 (Sept. 12, 2017) (mem.) ("[T]he issuance
 20 of the mandate of the United States Court of Appeals for the Ninth Circuit . . . is stayed with
 21 respect to refugees covered by a formal assurance, pending further order of this Court.").

22 In light of the Court's ruling on Defendants' motion for reconsideration, a stay of the
 23 preliminary injunction with respect to the resettlement assurance issue, pending further appellate
 24 review of the injunction as a whole, would be eminently reasonable and appropriate.

25
 26¹ Defendants understand the Court's prior instruction that they are not permitted to file a
 reply in support of their pending stay motion. Accordingly, Defendants do not address herein the
 arguments raised in Plaintiffs' individual response briefs.

DATED: January 5, 2018

Respectfully submitted,

1 CHAD A. READLER
2 Acting Assistant Attorney General

3 AUGUST E. FLENTJE
4 Special Counsel

5 JENNIFER D. RICKETTS
6 Director, Federal Programs Branch

7 JOHN R. TYLER
8 Assistant Director, Federal Programs Branch

9 */s/ Joseph C. Dugan*
10 MICHELLE R. BENNETT
11 DANIEL SCHWEI
12 KEVIN SNELL
13 JOSEPH C. DUGAN
14 Trial Attorneys
15 U.S. Department of Justice
16 Civil Division, Federal Programs Branch
17 20 Massachusetts Avenue, NW
18 Washington, DC 20530
19 Tel: (202) 514-3259
20 Fax: (202) 616-8470
21 Email: joseph.dugan@usdoj.gov

22 *Attorneys for Defendants*

1 **CERTIFICATE OF SERVICE**

2 I certify that on January 5, 2018, a copy of the foregoing document was electronically filed
3 with the Clerk of the Court using the CM/ECF system, which will send notification of such filing
4 to all counsel of record.

5 DATED this 5th day of January, 2018.

6
7 */s/ Joseph C. Dugan*
JOSEPH C. DUGAN